



Senate

General Assembly

File No. 214

February Session, 2008

Substitute Senate Bill No. 310

Senate, March 26, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CLARIFYING THE SALE OF SPECIAL HEALTH CARE PLANS FOR SMALL EMPLOYERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-565 of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) (1) In order to facilitate the provision of lower cost health
5 insurance coverage for uninsured small employers, the board shall
6 establish, subject to the approval of the commissioner, [two] special
7 health care plans [, one for use by health care centers and one] for use
8 by [other small employer carriers] the Health Reinsurance Association.
9 The board shall submit such [plan] plans to the commissioner for [his]
10 the commissioner's approval. [within ninety days after the
11 appointment of the board pursuant to section 38a-569.] The board shall
12 take into consideration the levels of health care plans provided in
13 Connecticut [, including those provided by health care centers, as
14 appropriate,] and such medical and economic factors as may be

15 deemed appropriate and shall establish benefit levels, deductibles,
16 coinsurance factors, maximum copayment obligations and exclusions
17 and limitations which the board considers appropriate for uninsured
18 small employers, provided the level of reimbursement shall be based
19 on the reimbursement rate. [Benefit] Such plans may include cost
20 containment features such as, but not limited to: (A) Preferred
21 provider provisions; (B) utilization review of health care services,
22 including review of medical necessity of hospital and physician
23 services; (C) case management benefit alternatives; and (D) other
24 managed care provisions. [The special health care plan established for
25 use by health care centers shall be consistent with the basic method of
26 operation and the benefit plans of health care centers.]

27 (2) After the commissioner's approval of special health care plans
28 submitted by the board pursuant to subdivision (1) of this subsection,
29 and in lieu of the procedure established by section 38a-481, [any small
30 employer carrier] the Health Reinsurance Association may certify to
31 the commissioner, in the form and manner prescribed by the
32 commissioner, that the special health care plans filed by [the carrier
33 are] said association are in substantial compliance with the provisions
34 in the corresponding approved board plan. Upon receipt by the
35 department of such certification, [the carrier] said association may
36 [use] offer such certified plans until such time as the commissioner,
37 after notice and hearing, disapproves their continued use.

38 (b) (1) [Within] Not later than ninety days after approval by the
39 commissioner of the special health care plans submitted by the board,
40 [every small employer carrier] the Health Reinsurance Association
41 shall [, as a condition of transacting such business in this state,] offer
42 small employers [a special health care plan, provided no small
43 employer carrier may be required to offer a special health care plan to
44 a small employer with ten or fewer eligible employees, the majority of
45 whom are low-income eligible employees. Such employers may
46 purchase a special health care plan from the Health Reinsurance
47 Association pursuant to section 38a-570. Small employer carriers that
48 do not offer special health care plans to such employers shall refer

49 those employers to the Health Reinsurance Association] such plans.
50 Except as provided in subdivision (2) of this subsection, every small
51 employer [which] that elects to be covered under a special health care
52 plan and agrees to make the required premium payments and to
53 satisfy the other provisions of the plan shall be issued such a plan by
54 [the small employer carrier or] the Health Reinsurance Association. [,
55 as the case may be.]

56 (2) No small employer [may] shall be eligible to purchase a special
57 health care plan unless such employer had maintained no health
58 insurance coverage for its employees at any time during the one-year
59 period ending on the date of application for such policy. No small
60 employer [may] shall purchase a special health care plan for more than
61 three years.

62 [(3) In addition to any other requirements related to the
63 establishment of premiums for special health care plans issued by
64 small employer carriers to small employers, (A) the anticipated loss
65 ratio shall not be less than seventy-five per cent of the premium, and
66 (B) small employer carriers shall file annually by the end of March of
67 each year information with the Insurance Department with respect to
68 such plans for the prior calendar year including the number of plans
69 issued, the anticipated loss ratio, the premiums earned, the paid and
70 estimated outstanding claims, expenses charged, and such other
71 information as the commissioner deems necessary to assure
72 compliance with subparagraph (A) of this subdivision.

73 (4) A health care center shall not be required to offer coverage or
74 accept applications pursuant to subdivision (1) of this subsection in the
75 case of any of the following: (A) To a group, where the group is not
76 physically located in the health care center's approved service area; (B)
77 to an employee, where the employee does not work or reside within
78 the health care center's approved service area; (C) within an area
79 where the health care center reasonably anticipates, and demonstrates
80 to the satisfaction of the commissioner, that it will not have the
81 capacity within that area in its network of providers to deliver services

adequately to the members of such groups because of its obligations to existing group contract holders and enrollees; (D) where the commissioner finds that acceptance of an application or applications would place the health care center in an impaired financial condition; or (E) to groups of fewer than three eligible employees, where the health care center does not utilize preexisting condition provisions in the plans it issues to any small employers. A health care center that refuses to offer coverage pursuant to subparagraph (C) of this subdivision may not, for ninety days after such refusal, offer coverage in the applicable area to new cases of employer groups with more than twenty-five eligible employees.

(5) A small employer carrier shall not be required to offer coverage or accept applications pursuant to subdivision (1) of this subsection subject to the following conditions: (A) The small employer carrier ceases to market health insurance or health benefit plans to small employers and ceases to enroll small employers under existing health insurance or health benefit plans; (B) the small employer carrier notifies the commissioner of its decision to cease marketing to small employers and to cease enrolling small employers, as provided in subparagraph (A) of this subdivision; and (C) the small employer carrier is prohibited from reentering the small employer market for a period of five years from the date of the notice required under subparagraph (B) of this subdivision.]

(c) Insurers may issue individual special health care plans subject to the laws applicable to individual health insurance in this state, provided such policies shall be identical to the individual special health care plans made available by the Health Reinsurance Association pursuant to section 38a-571, as amended by this act.

Sec. 2. Subdivision (10) of section 38a-567 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(10) If a small employer carrier denies coverage as requested to a small employer, the small employer carrier shall promptly offer the

115 small employer the opportunity to purchase a [special health care plan
116 or a] small employer health care plan. [, as appropriate.] If a small
117 employer carrier or any producer representing that carrier fails, for
118 any reason, to offer [such] coverage as requested by a small employer,
119 that small employer carrier shall promptly offer the small employer an
120 opportunity to purchase a [special health care plan or a] small
121 employer health care plan. [, as appropriate.]

122 Sec. 3. Subdivision (18) of section 38a-567 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective from*
124 *passage*):

125 (18) Each small employer carrier shall maintain at its [principle]
126 principal place of business a complete and detailed description of its
127 rating practices and renewal underwriting practices, including
128 information and documentation that demonstrates that its rating
129 methods and practices are based upon commonly accepted actuarial
130 assumptions and are in accordance with sound actuarial principles.
131 Each small employer carrier shall file with the commissioner annually,
132 on or before March fifteenth, an actuarial certification certifying that
133 the carrier is in compliance with this part and that the rating methods
134 have been derived using recognized actuarial principles consistent
135 with the provisions of sections 38a-564 to 38a-573, inclusive. Such
136 certification shall be in a form and manner and shall contain such
137 information, as determined by the commissioner. A copy of the
138 certification shall be retained by the small employer carrier at its
139 principle place of business. Any information and documentation
140 described in this subdivision but not subject to the filing requirement
141 shall be made available to the commissioner upon his request. Except
142 in cases of violations of sections 38a-564 to 38a-573, inclusive, the
143 information shall be considered proprietary and trade secret
144 information and shall not be subject to disclosure by the commissioner
145 to persons outside of the department except as agreed to by the small
146 employer carrier or as ordered by a court of competent jurisdiction.

147 Sec. 4. Subsection (d) of section 38a-566 of the general statutes is

148 repealed and the following is substituted in lieu thereof (*Effective from*
149 *passage*):

150 (d) A small employer carrier [which] that ceases marketing to small
151 employers as provided in [subdivision (6) of subsection (b) of section
152 38a-565 may] subsection (d) of section 38a-568 shall not cease enrolling
153 new employers in a policy issued to provide coverage to the members
154 of a trade association or to a trust on behalf of a trade association if the
155 following conditions exist:

156 (1) Such trade association is a not-for-profit trade association
157 qualified under 26 USC Section 501c(6), was not formed solely for the
158 purpose of providing insurance and has been operating continuously
159 for at least twenty-five years.

160 (2) The policy issued to or on behalf of such association was in
161 existence prior to June 1, 1990, and has annual premiums of less than
162 twenty-five million dollars.

163 (3) Such policy is offered on a guaranteed issue basis to all small
164 employer members and only to members of such trade association.

165 Sec. 5. Section 38a-571 of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective from passage*):

167 In addition to the options for individual comprehensive health care
168 plans, the Health Reinsurance Association shall make available to
169 individuals, on the same terms and conditions as are applicable to the
170 other individual comprehensive health care plan options under
171 sections 38a-505, 38a-546 and 38a-551 to 38a-559, inclusive, including
172 the provisions for establishment and filing of premium rates, the
173 option to purchase an individual special health care plan identical to
174 the special health care plan for small employers established in
175 accordance with section 38a-565 of the 2008 supplement to the general
176 statutes, as amended by this act. The requirement that coverage not
177 have been maintained for a [two-year] one-year period contained in
178 subdivision (2) of subsection [(c)] (b) of section 38a-565 of the 2008

179 supplement to the general statutes, as amended by this act, shall not
 180 apply to individual special health care plans.

181 Sec. 6. Section 38a-572 of the general statutes is repealed and the
 182 following is substituted in lieu thereof (*Effective from passage*):

183 No individual or organization [which] that provides medical advice,
 184 diagnosis, care or treatment of a type [which is] covered under a
 185 special health care [plans may,] plan, as defined in section 38a-565 of
 186 the 2008 supplement to the general statutes, as amended by this act, or
 187 section 38a-570, shall, on or after July 1, 1990, provide such service to
 188 any person in this state unless such individual or organization [would,
 189 upon request, provide] provides such service, upon request, on the
 190 basis of the applicable reimbursement rate, to low-income eligible
 191 employees or their dependents covered under such special health care
 192 plans or low income individuals or their dependents covered under
 193 individual special health care plans, as defined in section 38a-571, as
 194 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-565
Sec. 2	<i>from passage</i>	38a-567(10)
Sec. 3	<i>from passage</i>	38a-567(18)
Sec. 4	<i>from passage</i>	38a-566(d)
Sec. 5	<i>from passage</i>	38a-571
Sec. 6	<i>from passage</i>	38a-572

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill will not result in a fiscal impact for the Department of Insurance. It would eliminate a requirement that insurers offer special health care plans for small employers, instead it requires the Health Reinsurance Association to offer such plans.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 310*****AN ACT CLARIFYING THE SALE OF SPECIAL HEALTH CARE PLANS FOR SMALL EMPLOYERS.*****SUMMARY:**

This bill resolves a conflict between state and federal law by eliminating a requirement that insurers offer employers with 50 or fewer employees “special health care plans.” Under the bill, the Health Reinsurance Association (HRA) is the only entity required to offer such plans. The bill makes technical and conforming changes.

Current law requires insurers to offer “special health care plans” to small employers. But it exempts them from offering the plans to small employers with 10 or fewer employees, most of whom are low-income, if they refer such groups to HRA. The federal Health Insurance Portability and Accountability Act (HIPAA) requires insurers offering plans to small employers to offer all small employers all their products approved for sale in the small group market that they are actively marketing. Thus, insurers cannot comply with the current state law and still comply with federal law.

EFFECTIVE DATE: Upon passage

BACKGROUND***Health Reinsurance Association***

The legislature created HRA to provide comprehensive health insurance to people who cannot obtain insurance from commercial insurers. By law, all Connecticut health insurers and HMOs are (1) HRA members and (2) assessed for its losses.

Special Health Care Plans for Small Employers

By law, a “special health care plan” is a health insurance plan that

HRA or the Connecticut Small Employer Health Reinsurance Pool board of directors ("the board") establishes in accordance with statutory requirements for small employers with 10 or fewer employees, the majority of whom are low-income, that have not provided health insurance for their employees for one year. The law prohibits an employer from purchasing a special health care plan for more than three years.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/06/2008)